



**Office of the Mayor  
City of Seattle  
Gregory J. Nickels, Mayor**

**Executive Order: 05-03**

**Worker Retention Requirements in City Lease Agreements or Contracts**

*An Executive Order requiring City departments to include worker retention provisions in building cleaning and maintenance service contracts for certain service workers. The Executive Order directs City departments to include a requirement that a successor contractor and its subcontractor(s) retain those employees who worked in connection with the care and maintenance of an existing city-owned building or facility for a terminated contractor or its subcontractor(s) under a service contract.*

WHEREAS, the City of Seattle enters into various agreements regarding the cleaning and maintenance of its facilities either directly or through a third-party manager;

WHEREAS, the City of Seattle is also involved in the leasing of city-owned real property to public or private firms or organizations for various purposes, including but not limited to entertainment, commercial, and retail activities, and these firms or organizations often enter into agreements regarding building cleaning and maintenance services;

WHEREAS, at the conclusion of these service contracts, competition may result in awarding a new building cleaning and maintenance services contract to a different contractor or subcontractor;

WHEREAS, the City has found that the reasons for a change do not always necessitate the replacement of those workers presently performing these services;

WHEREAS, it is the policy of the City of Seattle to promote stability in employment in contracts for building cleaning and maintenance services in city-owned real property or facilities;

NOW, THEREFORE, I, GREGORY J. NICKELS, Seattle Mayor, do order that all City departments and offices revise their contracting procedures to include provisions to require a successor contractor or its subcontractor(s) to retain, for 90 days, those janitorial and custodial employees who maintain city-owned real property or facilities. The

contract shall also include language that requires the successor contractor or its subcontractor(s) to perform a written performance evaluation of each employee retained, under the Executive Order, at the end of the 90-day period. If the evaluation is satisfactory, the successor contractor or its subcontractor(s) must offer the retained employee continued employment under the terms and conditions established by the successor contractor or its subcontractor(s) or as required by law. This requirement applies to all contracts where the City is the owner/manager of real property or facilities, contracts to a third party to manage its real property or facilities, or where the City leases city-owned real property or facilities to a public or private firm or organization that enters into a separate contract with a contractor or subcontractor for the care and maintenance of the real property or facility.

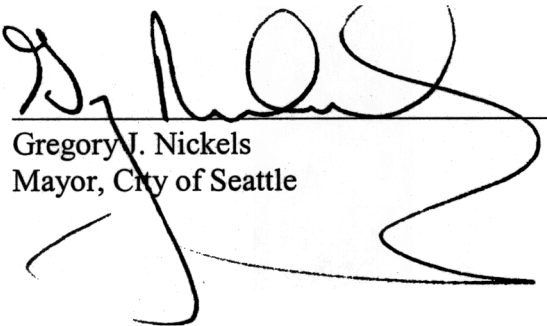
FURTHERMORE, City Departments and procurement staff are to include language in building cleaning and maintenance service contracts requiring the terminated contractor to provide a list of the name, address, phone number, date of hire, and employment classification of each covered employee to the successor contractor within ten (10) working days after receiving notification that the contract has been terminated.

FURTHERMORE, the requirements of this Executive Order do not apply to: buildings or facilities that are less than 50,000 square feet in size; employees who have been employed at the specific site for less than ninety (90) days prior to the date the terminated contractor's contract is terminated; employees who are classified as managerial, supervisory, or confidential employees; employees who work less than eight (8) hours

per week at the covered site(s); employees of a general contractor or special trade contractors primarily engaged in building repair work; employees that are required to possess an occupational license; or building cleaning and maintenance service contracts that are awarded to sheltered workshops as described in RCW 82.04.385.

Inquires regarding this Executive Order should be directed to the Office of Policy and Management.

Dated this 12 day of June, 2003.



Gregory J. Nickels  
Mayor, City of Seattle

# City of Seattle

## Office of Policy and Management

Mary Jean Ryan, Director  
Gregory J. Nickels, Mayor



### MEMORANDUM

Regina LaBelle, Counsel to the Mayor

**FROM:** Kenny Pittman, Senior Policy Analyst (684-8364) *Kenny*

**DATE:** June 6, 2003

**SUBJECT:** Worker Protection Executive Order

Viet Shelton, Correspondence Manager

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This file contains materials related to the proposed Worker Retention Executive Order that would require City departments to include worker retention provisions in building cleaning and maintenance service contracts issued directly by the City, on behalf of the City by a third-party, or by firms that lease City-owned facilities.

The purpose of the Executive Order is to promote stability in employment for building cleaning and maintenance employees by providing minimum standards for job security. In the building cleaning and maintenance service industry, contractor turnover in a facility is not uncommon based on a variety of factors that include the competitive bidding cycle. These employees may face loss of employment with as little as a thirty day notice. Such unemployment can burden social services, as well as remove from those buildings/facilities employees who are familiar with tenants and others who work there. This disruption can undermine the sense of security and safety in buildings/facilities that is so important.

The Executive Order would require that when a contractor or its subcontractor(s) loses a contract for building cleaning and maintenance services in a city-owned building/facility and is succeeded by a new contractor, the new contractor must offer employment to the incumbent employees, subject to cause, for ninety days. Nothing in the Executive Order would limit the new contractor's ability to establish terms and conditions of employment for the employees or to reduce the number of employees retained from the terminated contractor if determined that fewer employees are needed. The Executive Order provides for exemptions based on classifications of employees and sizes of buildings/facilities.

The following materials have been attached for your final review/approval before being transmitted to Mayor Nickels for his approval.

- Worker Protection Executive Order (hard copy and electronic version)
- 2. Worker Protection Question and Answer Sheet (hard copy and electronic version)
- 3. Summary of Existing City Building Cleaning and Maintenance Service Contracts (hard copy and electronic version)

Please do not hesitate to contact me if you have any questions.

**City of Seattle**  
**Worker Protection Executive Order**  
**June 6, 2003**

**1. What is the Seattle Worker Protection Executive Order?**

The Seattle Worker Protection Executive Order requires all City departments to include worker retention provisions in contracts for building cleaning and maintenance services and in leases of city-owned buildings or facilities. Specifically the Executive Order requires that a successor contractor and its subcontractor(s) retain for a 90-day period those employees who worked for the terminated contractor or its subcontractor(s) in connection with the care and maintenance (janitorial and custodial services) of existing city-owned buildings or facilities. This includes buildings or facilities where:

The City directly enters into a contract with the successor contractor.

The City, through a third-party manager, enters into a contract with the successor contractor.

The City leases the building or facility to a firm or organization that then enters into a contract with a successor contractor.

**2. What types of contracts are covered by the Executive Order?**

The Executive Order covers contracts for building cleaning and maintenance services that includes, but is not limited to window cleaning, janitorial services on a contract or fee basis, building maintenance, floor waxing, and office cleaning. It does not include building repair work performed by a general or special trade contractor or work that requires an employee to possess an occupational license.

**3. What is a successor contractor?**

A successor contractor is one who has been awarded a contract to provide a service that is similar to those provided under a recently terminated contract.

**4. What does the Executive Order require a terminated contractor to do?**

The Executive Order requires the terminated contractor to provide the successor contractor with the name, address, phone number, date of hire, and employment classification of each employee who worked at the site for that terminated contractor or its subcontractors under a contract for building cleaning and maintenance services. This information must be provided to the successor contractor within ten (10) working days of receipt of notification that the contract has been terminated

**5. What does the Executive Order require a successor contractor to do?**

The Executive Order requires the successor contractor to:

Offer employment and retain for a 90-day period the employees who worked at least 90 days, and at least 8 hours per week, for the terminated contractor or its subcontractor(s) prior to the date the contract is terminated. (See question #7 regarding which employees are covered)

Not discharge the employees retained under the Executive Order without cause during the 90-day period.

Perform a written performance evaluation of each employee retained under the Executive Order at the end of the 90-day period. If the evaluation is satisfactory, then offer the retained employee continued employment under the terms and conditions established by the successor contractor or as required by law.

**6. Do the employees retained under the Executive Order receive any additional protection?**

Employees retained under the Executive Order are employed under the terms and conditions of the successor contractor or as required by law.

**7 Does the successor contractor have to retain all the terminated contractor's employees?**

No. The Executive Order only covers employees who meet all of the following requirements:

Worked for the terminated contractor or its subcontractors at the specific site at least 90 days prior to the date the contract is terminated.

Worked at least 8 hours per week at the covered site.

Not a managerial, supervisory, or confidential employee.

Not an employee of a general or special trade contractor primarily engaged in building repair work such as elevator or escalator maintenance/repair.

Employee that is not required to possess an occupational license.

**8. What if the successor contractor determines that fewer employees are required to provide the services than were required by the terminated contractor?**

The names of the affected employees will be placed in order by seniority within each job classification. The successor contractor is required to retain employees based on seniority. The names of employees not retained must be placed on a preferential hiring list maintained by the successor contractor and from which the successor contractor may use for subsequent hires.

**9. Are there other exemptions under the Executive Order other than those outlined in question #7?**

Yes. The requirements of the Executive Order do not apply to:

Buildings or facilities that are less than 50,000 square feet in size.

Building cleaning and maintenance service contracts that are awarded to sheltered workshops as described in RCW 82.04.385.

Regular or temporary employees of the City of Seattle.

**10. What if a successor contractor is found to be in violation of the Executive Order?**

The City may take steps to terminate the agreement.

**11. Who should I contact if I have questions regarding the Executive Order?**

For additional information, please contact Kenny Pittman, Senior Policy Analyst, Office of Policy and Management at (206) 684-8364.

**City of Seattle**  
**Building Cleaning and Maintenance Service Contracts**  
**Information Summary**

<b>Property Name/Type</b>	<b>Contract Type</b>	<b>Comments</b>
Arctic Building – Office Alaska Building – Office Key Tower – Office *City owned/3 <sup>rd</sup> Party Managed	Private Contracts	
City Hall/Municipal Building Justice Center/Public Safety Bldg. *City owned/Managed	In House Staff	
Park 90-5 – Mixed Use (5 Bldgs.) Charles Street – Shop (7 Bldgs.) Sunny Jim – Shop Haller Lake – Shops (7 Bldgs.) <b>DoIT Communication – Shop</b> SPU North & South Operations DEA Animal Control *City owned/Managed	Sheltered Workshop	<b>DoIT plans to bid out for private contract this summer.</b>
Fire Department (33 Bldgs.) *City owned/Managed	In House Staff	Private contracts for Fire Alarm Center and Fire Department Headquarters. Firefighters maintain other facilities.
Police Department (7 Bldgs.) *City owned/Managed	Sheltered Workshop	Private contracts for SW Precinct and EOC; this summer will bid for private contracts for W. Precinct, E. Precinct, and K-9/Mounted Patrol.
Seattle Public Library City owned/Managed	In House Staff	Some contracting for window washing services.
Ballard Municipal Center *City Owned/Managed	None at this time	
Lake City Neighborhood Senior Center Neighborhood Service Centers *City owned/Managed	Private Contract	

Mercer Properties (13 Bldgs.) *City owned/Managed	Tenant responsibility as part of lease agreement	
Pioneer Square Restrooms *City owned/Managed	Private Contract	
Seattle Center (Various Bldgs.) *City owned/Managed	<p>Tenant responsibility as part of lease agreement</p> <p>In House Staff</p>	<p>Tenant responsibility for janitorial/custodial services in the following facilities: Seattle Children's Theatre, Seattle Repertory Theatre (partial), Intiman Theatre, EMP, Pottery Northwest, Northwest Crafts, Pacific Northwest Ballet at Phelps Center, the Fun Forest (for internal spaces), the Children's Museum and Theatre Puget Sound (both within the Center House).</p> <p>Seattle Sonics responsible in their exclusive-use areas of Key Arena.</p> <p>Exhibition House, Fischer Center, Center House (some specific exceptions – see above)</p> <p><b>*Space Needle and Pacific Science Center are privately-owned facilities and land within the boundaries of the Seattle Center. They use their own staff and contractors.</b></p>
City Light (Various Bldgs.) *City owned/Managed	In House Staff	
Parks Department	In House Staff	

As of June 5, 2003